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**FILED**

Board of Vocational Nursing  
and Psychiatric Technicians

8  
9 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11  
12 In the Matter of the Accusation Against:

13 **BRENDA JOYCE ANDERSON**  
263 G Street, #A  
14 Brawley, CA 92227

15 **Vocational Nurse License No. VN 72147**

16 Respondent.

Case No. VN-2008-3222

**A C C U S A T I O N**

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
21 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
22 Technicians, Department of Consumer Affairs.

23 2. On or about May 26, 1976, the Board of Vocational Nursing and Psychiatric  
24 Technicians issued Vocational Nurse License Number VN 72147 to Brenda Joyce Anderson  
25 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to  
26 the charges brought herein and will expire on October 31, 2011, unless renewed.

1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric  
3 Technicians (Board), Department of Consumer Affairs, under the authority of the following laws.  
4 All section references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license  
6 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period  
7 within which the license may be renewed, restored, reissued or reinstated.

8 5. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part,  
9 that the Board may discipline the holder of a vocational nurse license for any reason provided in  
10 Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

11 6. Section 2892.1 of the Code provides, in pertinent part, that the Board may renew an  
12 expired license at any time within four years after the expiration.

13 **STATUTORY PROVISIONS**

14 7. Section 482 of the Code states:

15 Each board under the provisions of this code shall develop criteria to  
16 evaluate the rehabilitation of a person when:

17 (a) Considering the denial of a license by the board under Section 480; or

18 (b) Considering suspension or revocation of a license under Section 490.

19 Each board shall take into account all competent evidence of rehabilitation  
20 furnished by the applicant or licensee.

21 8. Section 2878 of the Code states:

22 The Board may suspend or revoke a license issued under this chapter [the  
23 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the  
following:

24 (a) Unprofessional conduct.

25 . . . .

26 (j) The commission of any act involving dishonesty, when that action is  
related to the duties and functions of the licensee.

27 . . . .  
28

1       9.     Section 2878.5 of the Code states:

2               In addition to other acts constituting unprofessional conduct within the  
3       meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional  
4       conduct for a person licensed under this chapter to do any of the following:

5               (a) Obtain or possess in violation of law, or prescribe, or except as directed  
6       by a licensed physician and surgeon, dentist or podiatrist administer to himself or  
7       herself or furnish or administer to another, any controlled substance as defined in  
8       Division 10 of the Health and Safety Code, or any dangerous drug as defined in  
9       Section 4022.

### 10                               REGULATORY PROVISIONS

11       10.    California Code of Regulations, title 16, section 2518.6(b) provides:

12               (b) A licensed vocational nurse shall adhere to standards of the profession  
13       and shall incorporate ethical and behavioral standards of professional practice  
14       which include but are not limited to the following:

15                       (1) Maintaining current knowledge and skills for safe and competent  
16                       practice;

17                       (2) Maintaining patient/client confidentiality;

18                       (3) Maintaining professional boundaries with the patient/client;

19                       (4) Abstaining from chemical/substance abuse; and

20                       (5) Cooperating with the Board during investigations as required by  
21                       Section 2878.1 of the Business and Professions Code.

22       11.    California Code of Regulations, title 16, section 2522 identifies the following  
23       criteria in evaluating the rehabilitation of an individual:

24                       (1) Nature and severity of the act(s), offense(s) under consideration.

25                       (2) Actual or potential harm to the public.

26                       (3) Actual or potential harm to any patient.

27                       (4) Overall disciplinary record.

28                       (5) Overall criminal actions taken by any federal, state or local agency or  
                      court.

                      (6) Prior warnings on record or prior remediation.

                      (7) Number and/or variety of current violations.

1 (8) Mitigation evidence.

2 (9) In case of a criminal conviction, compliance with terms of sentence  
3 and/or court-ordered probation.

4 (10) Time passed since the act(s) or offense(s) occurred.

5 (11) If applicable, evidence of proceedings to dismiss a conviction  
6 pursuant to Penal Code section 1203.1.

7 (12) Cooperation with the Board and other law enforcement or regulatory  
8 agencies.

9 (13) Other rehabilitation evidence.

10 **COST RECOVERY**

11 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
12 the administrative law judge to direct a licensee found to have committed a violation or  
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
14 and enforcement of the case.

15 **DRUG**

16 13. Hydrocodone bitartate/acetaminophen, also known by the brand names Vicodin,  
17 Norco, Zydane, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and Anexsia, is a narcotic  
18 Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4),  
19 and is a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone  
20 is used as a narcotic analgesic in the relief of pain.

21 **FACTUAL ALLEGATIONS**

22 14. Respondent was employed as a licensed vocational nurse at El Centro Regional  
23 Medical Center (ECRMC) in El Centro, California. On April 10, 2009, ECRMC Chief Nursing  
24 Officer received information from the Director of Outpatient Centers that Respondent attempted  
25 to obtain a narcotic medication by submitting an altered copy of an electronic prescription to a  
26 local pharmacy, Desert Medical Pharmacy (DMP). The prescription was allegedly signed by an  
27 ECRMC physician, Dr. Lehr. However, when shown the prescription, Dr. Lehr indicated that the  
28 initials on the prescription were not his and that he had not given verbal approval to anyone to

1 have the prescription re-filled. Upon receiving this information, the Chief Nursing Officer  
2 initiated an internal investigation.

3 15. The internal investigation revealed that Respondent called DMP on April 10, 2009  
4 around 4:00 p.m. and spoke with the Pharmacy Assistant requesting information on an old  
5 prescription for Vicodin ES 7.5 mg, prescription number 2247033 from 2007. The Pharmacy  
6 Assistant located the prescription in the DMP computer database and noticed it was signed by Dr.  
7 Hamdy. She then called the Outpatient Clinic and informed Respondent that the prescription was  
8 expired and in Dr. Hamdy's name. Respondent stated that she needed this prescription for the  
9 weekend and asked how much it would cost. Respondent asked the Pharmacy Assistant to  
10 scratch off Dr. Hamdy's name and put Dr. Lehr's name and number (DEA) on it, and fax it to  
11 Respondent at the Outpatient Clinic. The Pharmacy Assistant complied with the request and  
12 faxed the prescription at 4:32 p.m. Within minutes of faxing it to the Outpatient Clinic, it was  
13 returned with what appeared to be Dr. Lehr's initials under his signature stamp. The Pharmacy  
14 Assistant, who was very familiar with Dr. Lehr's handwriting, recognized that the initials were  
15 not Dr. Lehr's and immediately reported this to the DMP Pharmacist. The Pharmacist and  
16 Pharmacy Assistant were discussing the issue when Respondent entered the pharmacy at  
17 approximately 4:30 p.m. The Pharmacist approached Respondent and told her the prescription  
18 could not be re-filled because Dr. Lehr had not authorized it. Respondent looked confused and  
19 left. DMP then contacted the Outpatient Clinic Manager and reported the incident. The Clinic  
20 Manager interviewed Respondent, who denied putting Dr. Lehr's signature on the prescription.  
21 Respondent then stated that she "was requesting it but the girl is supposed to get authorization  
22 from Workman's Comp. doctor, not from Dr. Lehr."

23 16. The Chief Nursing Officer also interviewed Dr. Lehr, who confirmed that he was  
24 in the Outpatient Clinic on April 10, 2009 between 3:00 and 6:00 p.m. When shown the  
25 prescription, Dr. Lehr immediately recognized that the initials were not his handwriting, and he  
26 could not recall applying his signature stamp to it. Dr. Lehr confirmed that Respondent was not a  
27 patient of his during this time and that Respondent did not request that he authorize a refill of any  
28 prescriptions.

1           17.     On April 13, 2009, the Chief Nursing Officer interviewed Respondent.  
2 Respondent acknowledged that she may have faxed twenty or twenty-five prescriptions to DMP  
3 on the afternoon of April 10, 2009, however when she was asked if she sent in the particular  
4 prescription for Vicodin, she replied that she never saw it. Respondent alleged that she spoke to  
5 an individual at the pharmacy about requesting it. Respondent stated that she was trying to "get"  
6 information for her workman's compensation doctor, Dr. Lane. When questioned why she did  
7 not have Dr. Lane call in the prescription for her, she replied that he just needed the workman's  
8 compensation information. The prescription contained no workman's compensation information  
9 on it.

10           18.     Respondent was re-interviewed by the Chief Nursing Officer and asked why she  
11 had gone to DMP to pick up the prescription. Respondent admitted going to the pharmacy but  
12 stated that it was to "provide" DMP with workman's compensation information so that it could be  
13 faxed to her physician. Respondent stated that she had telephoned Dr. Lane's office and informed  
14 "the girl on the phone" that she would have a local pharmacy fax a refill request over.  
15 Respondent was asked to explain how she could tell the pharmacy staff what to put on the  
16 prescription and then get Dr. Lehr to approve it, if she had never seen the prescription before.  
17 Respondent concurred that she gave this information to the pharmacy but she was unclear how  
18 the prescription got Dr. Lehr's signature on it. Respondent was placed on administrative leave  
19 pending the conclusion of the investigation. On May 1, 2009, Respondent was given the notice of  
20 intent to terminate employment.

21           19.     Dr. Lane's office had no record of a telephone call with Respondent on April 10,  
22 2009. Respondent's medical records from Dr. Lane's office reflect that Respondent was given a  
23 prescription for Vicodin in March 2007 to alleviate pain from a fractured patella. From February  
24 through December 2009, Respondent failed to keep her scheduled visits and Dr. Lane would not  
25 approve any additional refills until she returned for re-examination.

26           20.     During an interview with the Division of Investigation investigator on August 13,  
27 2010, Respondent stated that she called the pharmacy to confirm whether or not they had a copy  
28 of an old prescription Dr. Hamdy had written for her. She admitted that she asked to have the

1 prescription faxed to her at the Outpatient Clinic for Dr. Lehr's review. Respondent denied  
2 asking pharmacy staff to cross out Dr. Hamdy's name and replace it with Dr. Lehr's.

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Illegal Prescribing of Controlled Substances)

5 21. Respondent is subject to disciplinary action under section 2878(a), on the grounds of  
6 unprofessional conduct, as defined in Code section 2878.5(a) in that Respondent prescribed  
7 controlled substances in violation of the law, as described above in paragraphs 14 through 20,  
8 above, which are incorporated herein by reference.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Commission of An Act Involving Dishonesty)

11 22. Respondent is subject to disciplinary action under section 2878(j) of the Code on the  
12 grounds of unprofessional conduct for dishonesty, in that Respondent while employed as a  
13 licensed vocational nurse at ECRMC, Respondent attempted to obtain a controlled substance by  
14 fraudulent means, as described in paragraphs 14 through 20, above, which are incorporated herein  
15 by reference.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct)

18 23. Respondent is subject to disciplinary action under section 2878(a), on the grounds of  
19 unprofessional conduct, in that she failed to adhere to ethical and behavioral standards of  
20 professional practice as outlined in California Code of Regulation, title 16, section 2518.6(b)  
21 when she attempted to obtain a controlled substance by fraudulent means, as described in  
22 paragraphs 14 through 20, above, which are incorporated herein by reference.

23 **PRAYER**

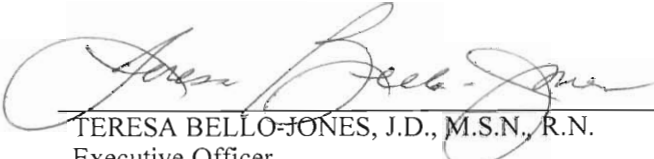
24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
25 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
26 issue a decision:

27 1. Revoking or suspending Vocational Nurse License Number VN 72147, issued to  
28 Brenda Joyce Anderson;

1           2.     Ordering Brenda Joyce Anderson to pay the Board of Vocational Nursing and  
2     Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
3     pursuant to Business and Professions Code section 125.3;

4           3.     Taking such other and further action as deemed necessary and proper.

5  
6     DATED: March 18, 2011.



TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
*Complainant*

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